

## United States Court of Appeals for the Ninth Circuit

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### General Order 6.4. (Amended September 28, 2005)

#### (c) **Motions for Stay of Deportation or Removal in Petitions for Review**

##### (1) Temporary Stay

Upon the filing of a motion or request for stay of removal or deportation, the order of removal or deportation is temporarily stayed until further order of the court. A briefing schedule will not be set until the motion for stay is resolved. Any existing briefing schedule will be deemed vacated upon the filing of such a motion.

##### (2) Supplemental Motion

If the initial motion for stay of removal or deportation fails to discuss the merits of the petition for review or to identify the potential hardships faced by the petitioner due to deportation or removal during the pendency of the petition, petitioner may, within 14 days from the filing of the initial motion, file a supplemental motion for stay. The court will ordinarily *not* issue any orders directing or inviting the filing of a supplemental motion.

##### (3) Response

The electronic certified administrative record shall be filed with the court within **56** days from the filing of the motion for stay, with hard copies of the record served simultaneously on both parties. The respondent shall file its response to the motion for stay within **84** days from the filing of the original request or motion. Any dispositive motions respondent seeks to file are due at the same time the response is due.

If the electronic certified administrative record is filed in accordance with the schedule established pursuant to this subsection, the court will not entertain any written or oral motions for extension of time to respond to a motion for stay. If the administrative record cannot be filed within the deadline established by this subsection, respondent shall file a written motion for extension of time to file both the administrative record and the response to the motion for stay, and shall state with particularity the reason for the delay in producing the record and the expected date of completion of the record. Once the electronic administrative record is filed, no further extensions of time to file a response to the stay motion will be entertained.

(4) Reply

The petitioner may file a reply to the response within 5 days from service of the response.

(5) Orders to Show Cause

If the court determines that it may lack jurisdiction over the petition for review, an order ordinarily will be issued directing the petitioner to show cause why the petition should not be dismissed for lack of jurisdiction. Other than the deadline for filing the electronic certified administrative record, the time limits set forth in this order will not apply and the order to show cause will establish the applicable time limits for responding to the order and to the motion for stay of removal if one is pending. The temporary stay will continue in effect pending resolution of the jurisdictional issue or until further order of the court.

(6) Non-Opposition

If respondent files a notice of non-opposition to the stay motion in lieu of the response provided for in subsection (3) above, the temporary stay shall continue in effect during the pendency of the petition for review or until further order of the court. If the respondent files a notice of non-opposition, a new briefing schedule will be established upon receipt of the notice of non-opposition. If the respondent does not file a response to the stay motion within the time limits set forth in subsection (3), the absence of a timely response will be treated as a notice of non-opposition and will be subject to the terms of this subsection. Respondent may, at any time during the pendency of the petition for review, move to lift the temporary stay. Any such motion to lift the stay, along with any response filed by petitioner within 8 days of service of the motion, will be presented to the next available motions panel for disposition.

(7) Other Petitions for Review

If a petition for review is filed without a request for a stay of deportation or removal, a briefing schedule shall be established upon the filing of the petition. The administrative record will be due **56** days from the filing of the petition rather than 40 days as provided in Fed. R. App. P. 17.

*Note*

*Pursuant to this court's decision in DeLeon v. INS, 115 F.3d 643 (9th Cir. 1997), a final order of deportation or removal is automatically temporarily stayed upon the filing of a motion or request for stay of deportation or removal in a petition for review of such an order. This temporary stay is in effect whether or not the court issues an order confirming such stay. See id. The court will not ordinarily issue such an order confirming the stay, although it may issue an order to show cause relating to jurisdictional questions or issues pertaining to the sufficiency of the stay request and/or the payment of fees. With regard to further briefing on the merits of the stay, petitioner may file a supplemental motion within 14 days. See Abbassi v. INS, 143 F.3d 513 (9th Cir. 1998).*